

## MESSAGE FROM UNITED STATES ATTORNEY MIKE HEAVICAN

I am pleased to have this opportunity to provide information on the activities of the United States Attorney's Office for the District of Nebraska during 2003. In cooperation with federal, state, and local law enforcement agencies throughout Nebraska, we continued to work to guard against terrorism, to fight violent crime and drug abuse, and to aggressively enforce federal criminal law in general. We also worked to successfully represent the interests of the United States and federal agencies, officers, and employees in civil litigation throughout the state.



The number of criminal and civil cases handled by our office continued to increase in 2003, and we accomplished much during the year. Our success could not have been achieved without the hard work and dedication of all of the employees of the Office, as well as the cooperation of the public and the federal, state, and local agencies with whom we work. Thanks to all who assisted in our efforts to make Nebraska a better place.

Michael G. Heavican  
United States Attorney  
District of Nebraska

# UNITED STATES ATTORNEY'S OFFICE DISTRICT OF NEBRASKA 2003 ANNUAL REPORT

## INTRODUCTION

As the chief federal law enforcement officer for Nebraska, United States Attorney Michael G. Heavican oversees all federal criminal prosecutions in the State, as well as civil litigation involving the United States and its officers and agencies. Mr. Heavican became United States Attorney for the District of Nebraska in September 2001. Prior to his appointment he served as First Assistant United States Attorney, Chief of the Drug Prosecution Unit in the United States Attorney's Office (USAO), and Lancaster County Attorney.

The District of Nebraska includes the entire State, which has an area of roughly 77,000 square miles and a population of over 1.7 million. From the large metropolitan areas of Omaha and Lincoln to smaller towns and expansive rural areas, Nebraska is geographically and culturally diverse. The State has a mixed economic base with substantial agricultural and agribusiness sectors, as well as significant manufacturing, technological and service sectors. Numerous federal enclaves and Indian reservations are also present.

United States Attorney Heavican supervises a staff of 26 Assistant United State Attorneys (AUSAs) and more than 40 support personnel working in offices located in Omaha and Lincoln. Six attorneys from the County Attorney's Offices for Douglas, Lancaster, Hall, and Dawson Counties, as well as attorneys from the Nebraska Attorney General's Office and several federal agencies, have been designated as Special AUSAs.

The USAO is made up of several components. The Criminal Division, which includes the General Crimes Unit and the Drug Prosecution Unit,

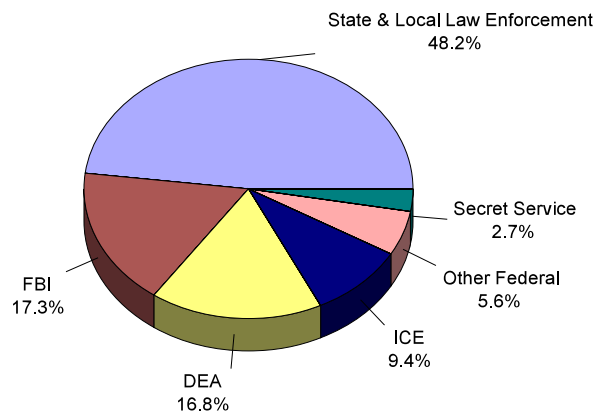
prosecutes violations of federal criminal law. Attorneys in the General Crimes Unit are supervised by Criminal Chief Jan Sharp. Drug Prosecution Unit attorneys are supervised by Organized Crime/Drug Enforcement Task Force (OCDETF) Chief William Mickle. Attorneys in the Civil Division, supervised by First Assistant Sally Johnson, represent the United States and its agencies, officers, and employees in affirmative and defensive civil litigation in federal and state courts. The operations in the Lincoln branch office are supervised by Branch Chief Steven Russell. The Law Enforcement and Community Coordination (LECC) Unit, supervised by LECC Manager Joseph Jeanette, maintains partnerships between law enforcement agencies, and provides information and assistance related to federal grants for law enforcement. The Administrative Unit, supervised by Administrative Officer Denise Smith, supports the operations of all components of the USAO.

## CRIMINAL DIVISION

Working closely with federal, state, tribal and local law enforcement agencies, the attorneys in the USAO's Criminal Division develop investigations of violations of federal criminal laws for presentation to a federal grand jury. If the grand jury returns an indictment, Criminal Division attorneys are then responsible for prosecuting the defendants named in the indictment in federal district court cases in Omaha, Lincoln, or North Platte.

## Defendants Indicted 2003

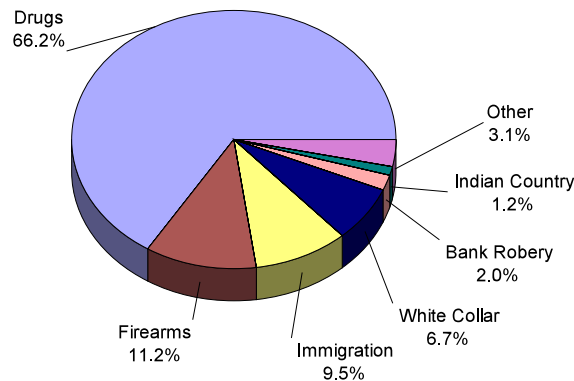
By Investigating Agency



A record number of federal criminal indictments were again filed in the District of Nebraska in 2003. A total of 731 indictments, charging 926 defendants, were filed during the year. The number of indictments filed represents an increase of nearly 21 percent over the number filed in 2002. Many of the cases involved charges related to illegal drugs, and a growing number charged violations of federal firearms and immigration laws.

## Defendants Indicted 2003

By Type



Much of the USAO's work in 2003 continued to focus on areas identified as national priorities by the Department of Justice. Those areas include anti-terrorism efforts, reduction of gun violence, drug enforcement, and white collar crime, including corporate fraud. In Nebraska, the USAO also placed special emphasis on law enforcement in Indian Country.

### A. ANTI-TERRORISM

The first priority of the Department of Justice is the fight against terrorism, both international and domestic. The USAO's Criminal Division has committed significant resources to this effort. Working closely with the FBI and other law enforcement agencies, the USAO has identified potential targets of terrorist activities in Nebraska, created communications networks to share information concerning possible terrorist activity, and developed plans for responding to terrorism events in the State. The USAO also has

worked with entities involved in emergency preparedness and infrastructure protection throughout Nebraska in order to improve and maintain the effectiveness of terrorism response plans.

Many of our anti-terrorism activities are coordinated by Intelligence Research Specialist Jerry McNinch. He serves as an inter-agency liaison with a broad range of governmental agencies located in the District, including the FBI, the U.S. Strategic Command, the Department of Homeland Security, the Transportation Security Administration, the U.S. Army Corps of Engineers, the Nebraska Homeland Security Coordinator, the Nebraska Emergency Management Agency, and the Nebraska State Patrol.

The USAO hosts quarterly meetings of Nebraska's Anti-Terrorism Advisory Council (ATAC), which is made up of representatives of federal, state, and local law enforcement agencies, as well as other organizations involved in the fight against terrorism. Nebraska's ATAC meetings are conducted jointly with the two USAOs in Iowa, and give participating agencies and organizations an opportunity to share information on all issues related to terrorism.

In order to increase the effectiveness of information sharing in the fight against terrorism, the USAO has placed videoconferencing equipment in State Patrol troop headquarters located throughout the State. The equipment is inter-connected, and tied into the USAO's videoconferencing equipment. The network allows law enforcement personnel in distant parts of the State to participate in ATAC meetings at the nearest troop headquarters rather than traveling to Omaha. The network also is available to agencies for use in all types of criminal investigations, which greatly enhances the ability of law enforcement personnel throughout the State to share information quickly and efficiently.

## Anti-Terrorism Litigation

### United States v. Jad Hammad -

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In April 2003, Hammad was convicted by a United States District Court jury of Fraud and Misuse of Visas, Permits and Other Documents. The charges related to an application for permanent residency, submitted under penalty of perjury, filed by Hammad in October of 2002 at the Omaha offices of the Immigration and Naturalization Service.

Evidence presented at trial showed Hammad was living in Lincoln, Nebraska, in October of 2002, having entered the United States on a visitor's visa he had obtained in Amman, Jordan, in January of 2001. Hammad was asked on an I-485, the form used to request permanent residency, whether he had ever been arrested or convicted inside or outside the United States of any criminal offense. Hammad answered the question "No." In fact, Hammad had been convicted in an Israeli military court in 1992 of two separate crimes and had actually served a prison sentence in Israel. Various court filings, including an affidavit filed in support of a criminal complaint filed in the case, established Hammad had been convicted of membership in an illegal organization (the Fatah Organization), and had also been convicted of firebombing offices at the Tomb of Shimon Hazadik (Simon the Righteous), in Jerusalem. Evidence presented during the trial established that Hammad had applied to emigrate to the United States in 1994 following his release from prison. His 1994 application, in which he disclosed his earlier convictions, was denied because of those convictions and Hammad was notified of the reasons for the denial by letter issued by the American Consulate in Jerusalem. When Hammad applied for the visitor's visa in Amman, Jordan, he did not disclose the earlier convictions and embassy officials failed to identify him as the person who was the subject of the earlier convictions. Hammad was sentenced in 2003 to a term of imprisonment of 5 ½ months and was subsequently deported from the United States.

## B. GUN VIOLENCE REDUCTION

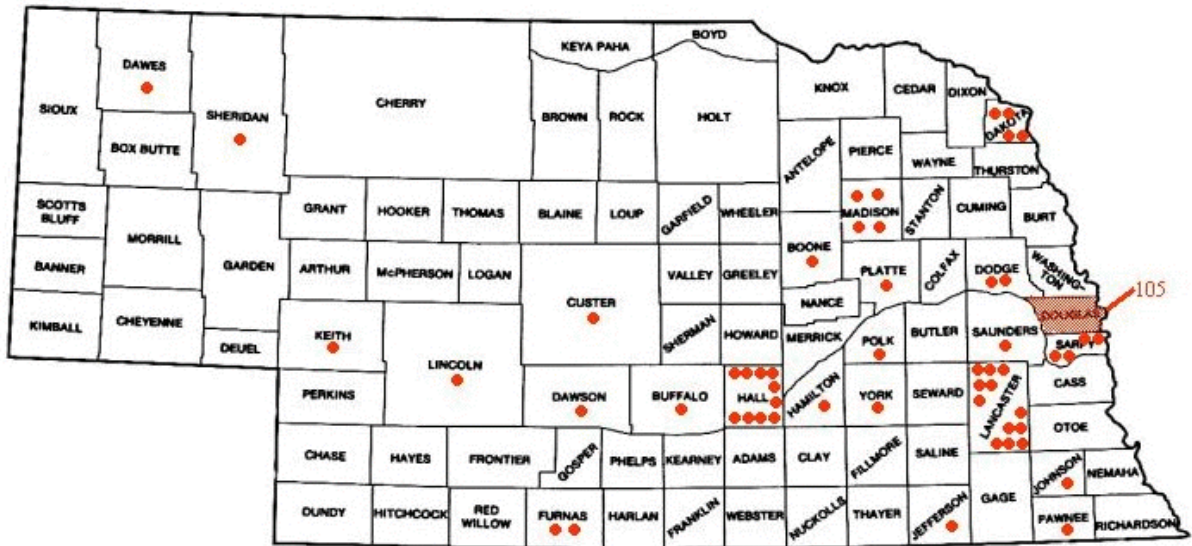
Reduction of the threat and incidence of violent crime, especially from the illegal use of guns, is a national priority of the Department of Justice. The primary vehicle for accomplishing this priority is Project Safe Neighborhoods, which encourages the strategic use of federal prosecution of gun offenses to deter violent crime.



Nebraska's Project Safe Neighborhoods program employs specific strategies developed to address the problem of gun violence as it exists in the State. As part of the Project, the USAO attempts to identify those individuals who present the most serious threats to their respective communities and to make those persons the subject of intense scrutiny and federal prosecution. Reports of gun-related incidents, maps of the location of incidents involving gun violence, and statistical information reflecting incidents of gun violence are reviewed to determine the most effective strategies for addressing the problem. The success of the USAO's gun violence reduction efforts is regularly assessed, and the strategies adjusted as appropriate.

A Project Safe Neighborhoods Task Force made up of law enforcement officials from several state and local agencies, business leaders, researchers and public relations experts identifies specific goals for the program and has designed an outreach campaign. Partnerships have been established between the Project Safe Neighborhoods Task Force, the USAO, and existing community groups working on solutions to gun violence and drug trafficking problems in Nebraska's communities. Attorneys from the USAO's Criminal Division attend regular meetings with the Omaha Police Department's gang unit and the Douglas County Attorney's Office to review incidents of gun violence in the City of Omaha and to determine which offenders should be prosecuted in federal court. Screening prosecutors have also been designated in other populous counties of the State to assist the USAO in identifying cases appropriate for federal prosecution. As shown in

the map below, cases have been referred from various locations throughout Nebraska.

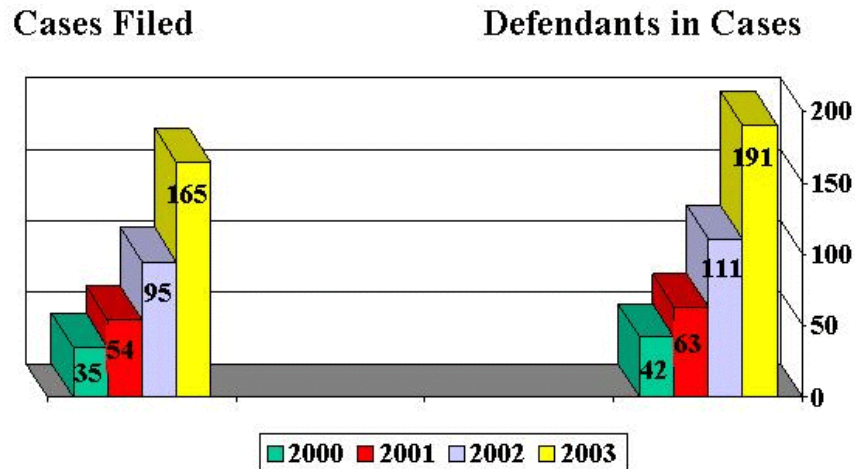


## PSN CASE REFERRALS 2003

The Project Safe Neighborhoods program has resulted in a significant increase in the number of gun charges prosecuted in federal court. The number of federal firearms charges filed in Nebraska increased by 374% between 2000, before the program was initiated, and 2003. During 2003, the USAO charged 191 defendants as part of the initiative. Many were previously convicted felons who illegally possessed firearms. Some of the cases filed in 2003 were "gun only" cases while others involved both drug and gun charges. The number of gun charges filed in federal court in 2003 represents a 75% increase over 2002.



# Federal Gun Indictments



Available evidence suggests that Project Safe Neighborhoods is having a significant effect in diminishing the incidence of violent crime in Omaha and other areas of the State. Statistical data reflecting the occurrence and location of violent crime incidents is being collected and will be analyzed to assess the success of the project. Adjustments to the strategy will be made, if necessary, based on that analysis.

## Project Safe Neighborhoods Cases

### United States v. Robert Watkins -

A search warrant executed at Watkins' residence uncovered a firearm in his bedroom and five additional firearms in the trunk of his car. Because of his extensive criminal record, Watkins was not entitled to possess firearms. Watkins was convicted, found to be an Armed Career Criminal, and was sentenced to imprisonment for 210 months.

### United States v. Robert Lillard -

Robert Lillard was convicted of being a Felon in Possession of a Firearm. Because of his lengthy criminal record Lillard was found to be an Armed Career Criminal and was sentenced to prison for 15 years.

### United States v. John Ways, Jr. -

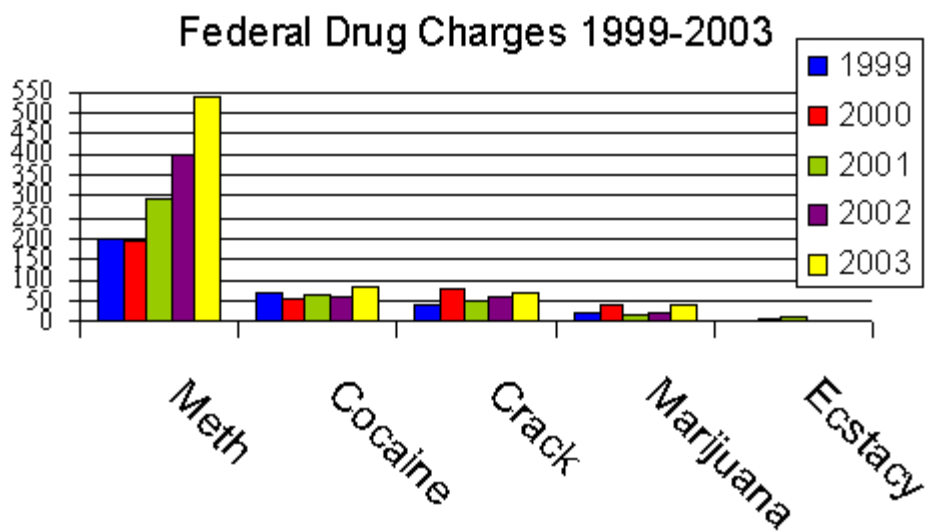
John Ways, Jr. was indicted in 2003 on various firearms charges ranging from being a felon in possession of a pistol to possessing various destructive devices. The destructive devices consisted of 37 mm 'launchers' and different types of 'ammunition' for the launchers, including devices which exploded after being expelled from the launcher, causing fragmentation effects similar to a grenade. All of the weapons & destructive devices were possessed by Ways at his notorious Lincoln strip club, Mataya's Babydolls. Ways has pleaded guilty and is awaiting sentencing.

## C. DRUG ENFORCEMENT

Drug enforcement is another national priority of the Department of Justice, and is an important local priority in Nebraska. As a result, the USAO continued to commit significant resources to the fight against drugs in 2003. Through cooperative agreements with the Nebraska Attorney General's Office, and the County Attorney's Offices in Douglas, Lancaster,

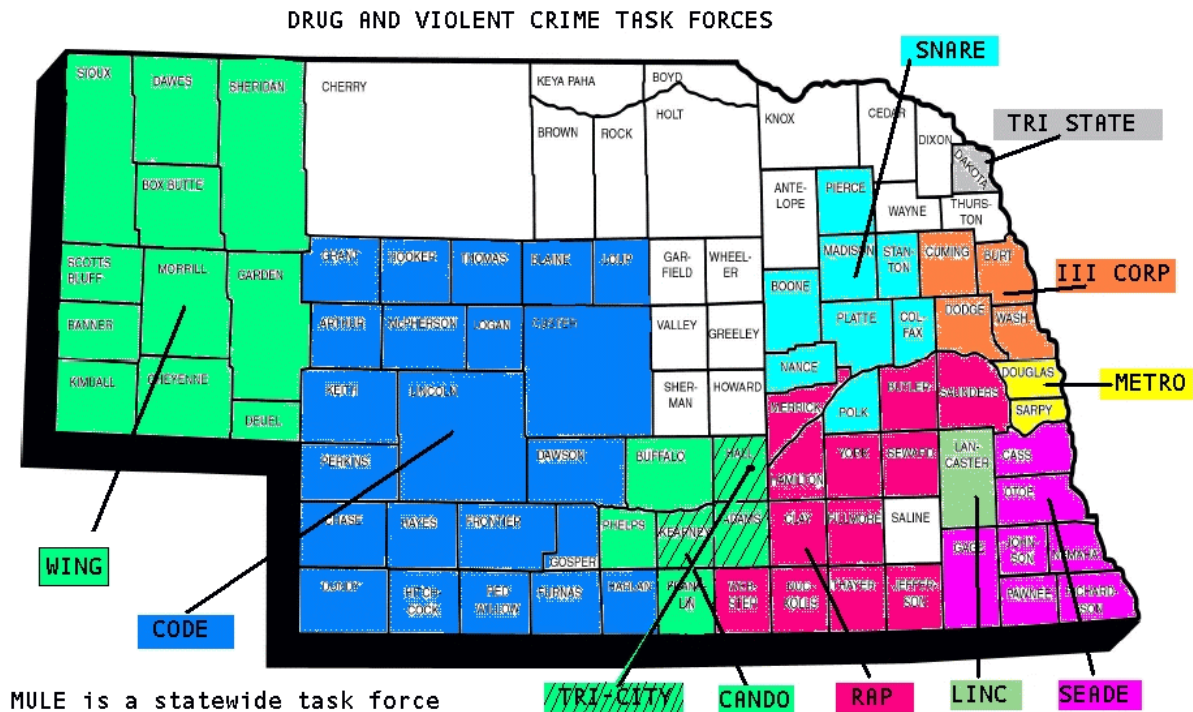
Hall, and Dawson Counties, the USAO has been able to expand its prosecutorial resources through the appointment of Special Assistant United States Attorneys who work exclusively on drug cases.

In 2003, the USAO continued its efforts to identify, disrupt and dismantle drug trafficking organizations operating in Nebraska and elsewhere. The office filed 471 drug indictments charging 632 defendants in 2003. A large majority of the charges involved methamphetamine. The following chart reflects types of drug charges filed in the past five years.



The entire staff of the USAO's Drug Unit is actively involved in the implementation of the West-Central OCDETF regional strategy, which targets priority drug trafficking organizations within the West-Central Region. In fact, the USAO led the nation in the number of OCDETF indictments filed in fiscal year 2003, which encompassed the period from October 1, 2002, through September 30, 2003. (See Appendix A.) Nebraska's OCDETF Coordinating Group continues to be an active and dynamic body, extensively involved in the identification of large scale narcotics cases in the State. The Drug Enforcement Nebraska Task Force (DENT) Board, which includes the chief administrative officer/agent of several local, state and federal law enforcement agencies, guides the identification of cases to be prosecuted federally in the District of Nebraska, as well as those with connections to other districts and regions.

Attorneys from the USAO also continue to work with eleven law enforcement task forces made up of federal, state, and local agencies investigating illegal drug activity in various regions of the State. The task forces provide the investigative assistance necessary to develop evidence for use in drug prosecutions, and serve as a valuable mechanism for sharing intelligence on illegal drug activities throughout the State. In cooperation with the task forces, local prosecutors and attorneys from the USAO determine which cases are appropriate for federal prosecution, and which should be prosecuted in the State court system.



CANDO = Compact for Apprehension for Narcotics Dealers and Offenders  
 CODE = Central Nebraska Cooperative Operation for Drug Enforcement  
 LINC = Lincoln/Lancaster County Drug Task Force  
 METRO = Metro Omaha Drug Task Force  
 MULE = Mid & Upper Law Enforcement  
 RAP = Rural Apprehension Program  
 SEADE = Southeast Area Drug Enforcement  
 SNARE = Specialized Narcotics Abuse Reduction Effort  
 WING = Western Nebraska Intelligence Narcotics Group

In recognition of the USAO's emphasis on drug enforcement, United States Attorney Heavican and OCDETF Chief Mickle actively participate in national and regional working groups which are instrumental in formulating drug enforcement strategies. In 2003, United States Attorney Heavican served as the National Chairman of the Attorney General's Advisory Committee Controlled Substances Sub-Committee, which has direct input into the development, implementation and evaluation of the Department of Justice's national drug enforcement strategies. Mr. Heavican also chairs the Executive Committee of the Midwest High Intensity Drug Trafficking Area organization (HIDTA), an entity devoted to developing effective strategies to address the problem of illegal drug importation, manufacture, and distribution in the Midwest.

As part of its effort to fight illegal drug use, the USAO has for several years supported community outreach and education programs designed to discourage drug use. One successful effort being utilized in the District is Retail Watch Nebraska. The USAO, together with law enforcement agencies in various communities and the Midwest HIDTA, has formed a network of retailers to watch for and report individuals who purchase products used in the manufacture of methamphetamine (pseudoephedrine, lithium batteries, drain cleaners, muriatic acid, de-icer, starter fluid, camping fuel, etc.). Merchants provide information which is collated with other data for the statewide intelligence network. The information not only assists in the identification of individuals potentially involved in the manufacture of illegal controlled substances, but is also of value in developing prosecution strategies designed to reduce the demand for illegal drugs.

### Drug Enforcement Cases

#### United States v. William Monnier -

In a case investigated by the CODE Task Force, William Monnier of North Platte was found guilty of distribution of methamphetamine resulting in the death of Esperanza Mendoza, and with conspiracy to distribute more than 500 grams of methamphetamine. Upon his conviction, Monnier was sentenced to imprisonment for 30 years.

### Operation Lowrider -

This OCDETF investigation has been conducted by the Lincoln/Lancaster County Narcotics Unit, the Tri-City Drug Task Force, and Omaha area agencies. Since the investigation began in 2000, more than 220 persons have been indicted on various federal charges including conspiracy, distribution, conspiracy to distribute, and manufacturing of methamphetamine, and charges related to the distribution of marijuana, heroin, cocaine, and crack cocaine. Some of the defendants have also been charged with firearms violations, and there have been several forfeitures of drug proceeds. During 2003, 75 persons were indicted as a result of the investigation. To date, 61 of the defendants indicted in 2003 have been convicted. Of those, 30 have received federal prison sentences of 10 years or more.

### Stinky Lemon Investigation -

This OCDETF investigation conducted by the Omaha Police Department, ATF, and the FBI centered on an organization trafficking large quantities of methamphetamine from a Mexican cartel into the Omaha area. The investigation culminated in the indictment of 56 individuals, 30 of whom were illegal aliens. Twelve of those charged received sentences averaging 214 months. Six kilos of methamphetamine, ten kilos of cocaine, \$50,000, and 15 handguns were seized during the investigation.

### Seferino Carrillo, et al. Investigation -

In this off-shoot of the Broken Glass investigation, the SEADE Task Force, working in close cooperation with the DEA, ATF, the Beatrice Police and others investigated Carrillo, a methamphetamine dealer living in the Beatrice area, and his associates. The organization headed by Carrillo had several methamphetamine sources, mostly in California. The methamphetamine was diluted with a horse feed supplement known as MSM and was then distributed all over southeastern Nebraska and northeastern Kansas. Carrillo was

sentenced to 30 years in prison in November 2003. John Frees was sentenced to imprisonment for 21 years. Twelve other defendants have received sentences ranging from 46 to 210 months. Additional defendants are awaiting trial or sentencing, and some are fugitives.

#### Jayden's Playground Investigation -

This OCDETF case investigation by the Tri-Corps Drug task force led to three indictments in November 2002, and 15 in 2003. All but one of the defendants have pled guilty. The case has had a significant impact in methamphetamine trafficking in the Fremont area.

#### Strawman/Traffic Jam Investigation -

The FBI, and the Metro Omaha, Tri-City, and SNARE Task Forces have conducted this investigation, which has led to the indictment of more than 25 people involved in a methamphetamine drug pipeline between Grand Island, Columbus, Norfolk, Omaha, and Council Bluffs.

#### Papercut Investigation -

This OCDETF case investigated by the Metro Omaha Task Force resulted in indictments against 40 drug dealers and users who also committed numerous property crimes to support their drug activities. The last three defendants were sentenced July 2003 to prison terms of 120 months, 70 months and 192 months.

#### 29th Street Bloods Investigation -

This investigation by the Metro Omaha Task Force resulted in the indictments and ultimate convictions of a dozen individuals who used the area of 29th and Ellison in Omaha as an outdoor market for selling crack cocaine. Not only was this neighborhood restored to some stability, the indicted individuals agreed to cooperate against other crack dealers with whom they had been involved. At least a

dozen additional indictments have resulted from the cooperation of the first round of defendants.

United States v. Panduro-Contreras, et al. -

An investigation by the WING Task Force in Western Nebraska led to the indictment of Javier Panduro-Contreras, Jr., Sinndy Deivy Panduro, and Jose Martin Panduro-Avena on charges of conspiracy and possession of pseudoephedrine to be used in the manufacture of methamphetamine.

D. LAW ENFORCEMENT IN INDIAN COUNTRY

Improving law enforcement in Nebraska's Indian Country is an important priority of the USAO. In recognition of this, United States Attorney Heavican serves on the Attorney General's Advisory Committee Subcommittee on Native American Issues. Federal criminal jurisdiction applies on the Omaha and Winnebago Reservations in Eastern Nebraska. An application for retrocession of jurisdiction for criminal offenses committed on the Santee Sioux Reservation in Northeast Nebraska is being considered. As a result, the USAO has extensive dealings with all three Tribes.

In an effort to build on the working relationship which exists between the USAO and the Indian Nations present in Nebraska, United States Attorney Heavican and other USAO managers continued in 2003 to travel to the Omaha and Winnebago Reservations to meet with the Tribal Councils for the respective Tribes on a quarterly basis. At those meetings, personnel from the USAO endeavor to answer questions posed by the Tribal leadership and address issues of common interest. United States Attorney Heavican and several USAO staff members have also met with representatives of the Santee Sioux Nation, the Bureau of Indian Affairs, and state and local law enforcement agencies to develop plans for procedures to assure effective law enforcement on the Santee Sioux Reservation upon retrocession of criminal jurisdiction for offenses committed there.



The USAO has worked with the Tribes to determine what law enforcement issues are important to them and, where appropriate, has changed its prosecutorial policies to address Tribal concerns. For example, the USAO has relaxed its prosecution guidelines for cases arising on the reservations in an effort to reduce drug abuse there through visible, aggressive criminal enforcement of drug laws. In a further effort to address concerns raised by the Omaha and Winnebago Tribes, the USAO continues to send at least one, and sometimes two, staff members to monthly Multi-Disciplinary Team (MDT) meetings which involve review of reported child abuse cases occurring on the Omaha and Winnebago Reservations. The cases are then tracked to make sure the complaints receive appropriate follow-up and that cases are reported to law enforcement and social service agencies in a timely manner.

LECC Manager Jeanette and his staff also work to assist the Tribes in obtaining information on grants and other available resources which might benefit Nebraska's Tribes. The Omaha and Winnebago Reservations are located primarily in Thurston County. Much of Thurston County was declared a federal Weed and Seed site in 2003. That designation will allow the release of federal grants for increased law enforcement, and for various other programs designed to improve conditions in the County.

The USAO and the Bureau of Indian Affairs presented a jurisdictional training conference in South Sioux City in January 2003 to address jurisdictional issues which state, federal and tribal law enforcement authorities must resolve when a crime occurs on an Indian Reservation in Nebraska. Numerous experts made presentations on the applicable legal principles, and several breakout sessions were held to allow small group discussion aimed at identifying workable solutions to recurring concerns. The conference was attended by representatives of Tribal, state, local and federal entities involved in law enforcement throughout Nebraska's Indian Country.

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## Indian Country Cases

The USAO filed approximately 20 cases related to crimes occurring on the Omaha and Winnebago Reservations in 2003. Because of the special nature of federal jurisdiction in Indian Country, the cases involved crimes usually punished under state law, such as assault, sexual assault, and burglary, as well as more typical federal offenses.

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### United States v. Wisdom Webster and Marcus Country -

Wisdom Webster, Marcus Country and others were involved in the murder of Brandon Horn on the Omaha Reservation in June 2001. Horn was badly beaten and then dragged into a field where he later died. Webster and Country were juveniles whose cases were transferred for adult prosecution. In 2003 Webster and Country entered pleas of guilty to Conspiracy to Commit Second Degree Murder and a related charge of Assault with a Dangerous Weapon. In November 2003, Webster and Country were committed to the custody of the Bureau of Prisons for 78 months.

### United States v. Corey Tebo -

Corey Tebo was indicted for conspiring to distribute marijuana, possessing marijuana with intent to distribute, and possessing marijuana with intent to distribute within 1,000 feet of a housing facility owned by a Public Housing Authority. He has entered a guilty plea and is awaiting sentencing.

### United States v. John Hulit -

John Hulit was indicted for conspiring to distribute methamphetamine, and possessing methamphetamine with intent to distribute. He is awaiting trial.

## E. OTHER CRIMINAL DIVISION PRIORITIES

Illegal immigration continues to be a persistent problem in Nebraska. The USAO has committed to aggressively prosecute felons who have illegally reentered the United States following deportation. In recognition of the relationship between immigration cases and homeland security, the USAO has also committed to prosecute cases involving widespread creation and dissemination of fraudulent immigration papers.

White collar fraud prosecutions are also a priority concern of the USAO. Personal accountability, as opposed to simply corporate accountability, has been required in all fraud cases in which it is possible to prove individual responsibility. Restitution for victims has been sought in all appropriate cases. Whenever significant assets can be located, the USAO has endeavored to ensure that victims receive full restitution.

### General Criminal Cases

In addition to the cases described in the specific sections listed above, Criminal Division AUSAs successfully prosecuted several other significant cases in the last year.

### White Collar Crime

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#### United States v. Brahmsteadt and Hashberger -

In 2001, Peggy Brahmsteadt and Rosie Hashberger conspired to defraud the United States Government of up to \$100,000, by having Brahmsteadt fake an injury at the Howells Nebraska Post Office and then seek damages from the Postal Service. Brahmsteadt orchestrated a fraudulent "fall" at the Post Office and later filed a claim and lawsuit seeking monetary damages. Hashberger pleaded guilty in 2003. Brahmsteadt was indicted in 2003, and convicted of three counts in a jury trial in early 2004.

United States v. Paul Allen, Jr. -

Paul Allen, Jr. contacted various private lending businesses in Lincoln, and in Texas and Canada, and 'sold' them phony accounts receivable purporting to be from legitimate businesses such as the Billy Graham Evangelic Association and NAPA Auto Parts. Allen 'sold' these receivables at a discount, and the businesses stood to make a profit if they could then collect in full. Because the receivables were phony, the three business victims lost a total of \$268,970. Allen was sentenced to 2 years imprisonment and ordered to pay full restitution.

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United States v. Rider -

Katherine Rider of Lincoln was an independent life insurance salesperson representing various life insurance companies. During 2003 she pleaded guilty to stealing the cash value of her customers' life insurance policies totaling \$856,977 in a scheme dating back to at least the 1980's. Rider has yet to be sentenced, but has agreed to a three year prison term.

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United States v. Dennis Damrow -

Dennis Damrow pleaded guilty to two counts of bank fraud related to the operation of cattle feedlots in Phelps and Harlan County, Nebraska. Damrow made false statements to defraud the First National Bank of Holdrege and the Frist National Bank of Omaha. Total losses were approximately \$7 million dollars. He is awaiting sentencing.

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United States v. Mfon Ukpanah -

Mfon Ukpanah was convicted of wire fraud as a result of a scheme to defraud Accutrade, an Omaha based discount account brokerage firm. During the time of the fraud, Accutrade customers could deposit funds, buy and sell securities, liquidate their accounts, and conduct other business over the telephone if proper identifiers were provided.

Ukpanah and others fraudulently obtained customer information from bonafide Accutrade customers and, posing as those customers on the telephone, caused over \$180,000 in funds to be wired out of those customers' accounts at Accutrade. The funds were ultimately deposited in bank accounts in Houston, Texas, controlled by the defendant. As a result of the scheme, Accutrade suffered a loss of approximately \$85,000. Ukpanah received a substantial prison sentence and was ordered to make restitution to Accutrade.

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United States v. Son Nguyen, et al. -

Son Nguyen, his wife Linda Nguyen, and Tran Tung defrauded various banks in the Lincoln and Omaha area in 2002. The defendants took advantage of the victim banks' policy of cashing checks payable to their checking account holders before the checks cleared. Defendants then wrote or caused to be written a series of checks drawn on accounts which had insufficient funds to cover the checks. As a result of the scheme, the banks suffered a loss of approximately \$125,000. The defendants were sentenced to varying periods of incarceration and ordered to make restitution.

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United States v. Warren Bierman -

Warren Bierman was indicted on bank fraud charges arising from his execution of a check kite. During a three month period he kited approximately \$117,000,000 in checks between three accounts he was utilizing. When the kite was detected, United Nebraska Bank was left with a loss of over \$1,000,000.

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Violent Crime

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United States v. Sean Rush, Darius Devers, Marcus Williams, Jonathan Franklin and James Anderson -

These individuals committed four armed bank robberies over a two-month period. The robbers became more aggressive after each

robbery and began jumping teller counters, searching vaults and threatening tellers with handguns. All five defendants were convicted and received sentences ranging from a little over 5 years to 13 ½ years.

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United States v. Richard Shaffer -

Serial bank robber Richard Shaffer was apprehended in Omaha after robbing a local bank. He had also committed bank robberies in Illinois, Iowa, New Mexico, Arizona and Texas before he was caught. Shaffer, in total, robbed 6 banks. He has been convicted and is awaiting sentencing.

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Child Pornography

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United States v. Millard Vian

Vian pleaded guilty to possession of child pornography in connection with a nationwide FBI investigation of a child pornography website. The investigation uncovered numerous individuals throughout the nation distributing and receiving child pornography over the Internet. Numerous pictures of child pornography were found on Vian's computer. At the time of his guilty plea, Vian agreed to forfeit his computer to the United States.

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Corruption

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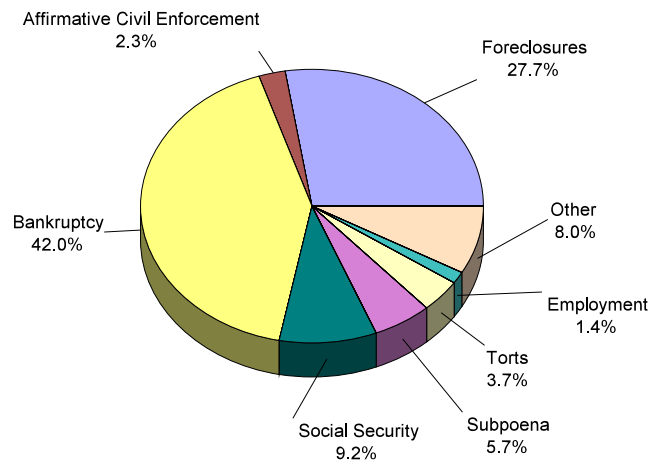
United States v. Donna Johnson -

Donna Johnson was indicted on charges alleging she committed Mail Fraud. The indictment alleges that Johnson, a case worker employed by the Nebraska Department of Health and Human Services, concocted a scheme in which she would be paid kickbacks in exchange for arranging the payment of welfare benefits to ineligible recipients. Trial is pending.

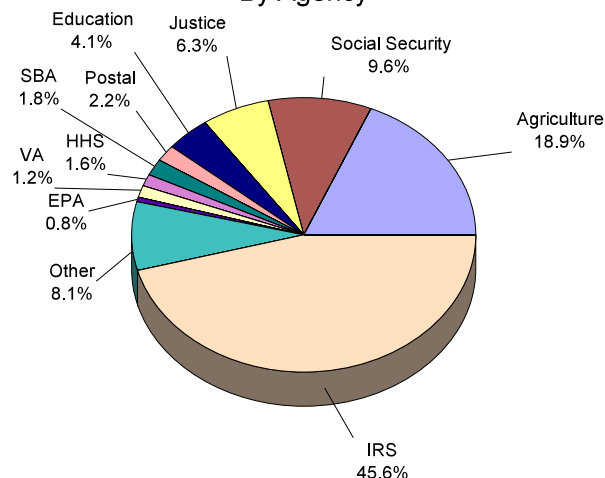
## CIVIL DIVISION

Attorneys in the USAO's Civil Division represent the United States, as well as federal agencies, officers, and employees, in civil litigation in federal and state courts throughout Nebraska. Civil Division AUSAs completed work on 480 cases in 2003. Included in that number were affirmative cases brought to enforce federal statutory and regulatory requirements, and to collect debts owed to the United States. Also included were defensive cases in which the validity of federal laws, or the acts of federal agencies and employees, were challenged. The charts below depict the types of civil cases and matters completed during 2003, and the agencies involved.

**Civil Cases and Matters Closed 2003**  
By Cause of Action



**Civil Cases and Matters Closed 2003**  
By Agency



Civil Division AUSAs have worked in recent years to enhance the Affirmative Civil Enforcement (ACE) program of the USAO. The ACE program involves various initiatives designed to collect civil monetary penalties for violations of federal law, to recover costs regulatory agencies incur as a result of violations of federal legal requirements, and to obtain compliance with the requirements of federal law through civil litigation. In calendar year 2003, ACE recoveries totaled over \$2.4 million.

The USAO's ACE program includes an active Health Care Fraud Task Force made up of civil and criminal attorneys, investigators from various state and federal agencies, and representatives of insurance providers and intermediaries. The task force approach provides effective communication regarding the investigation of health care fraud in the district, and allows the USAO to pursue cases in the manner most effective to deter fraudulent activity and recover losses.

Other areas of emphasis in the ACE program include environmental enforcement and enforcement of civil rights laws such as the Americans with Disabilities Act. In 2003 the USAO worked on several civil environmental cases brought to recover civil penalties from polluters, and to recover the Environmental Protection Agency's costs in responding to the cleanup of sites in Nebraska contaminated with hazardous waste.

As in most years, Civil Division AUSAs also conducted a significant amount of litigation in 2003 to collect debts owed to the United States. Suits to obtain judgments for unpaid balances on delinquent loans made by agencies such as the United States Department of Agriculture, the United States Department of Education, the Department of Veterans Affairs and the Small Business Administration comprise a significant portion of the USAO's civil workload. The cases are litigated in federal district court, bankruptcy court, and state courts throughout Nebraska.

In the area of defensive litigation, the Civil Division of the USAO continued efforts to provide quality representation to the United States and its agencies and officers in federal and state court cases. Civil Division attorneys defended a large number of cases brought in federal court to set



aside or modify the actions of federal agencies and officers. Division attorneys also handled several cases seeking damages for alleged negligence or other wrongful conduct by federal employees, as well as cases alleging discrimination in federal employment and federal programs. In many of these cases, judgment was entered in favor of the United States. In the others, as a result of the USAO's efforts in defending the cases, the amount of damages paid by the United States was millions of dollars less than the amount sought by the plaintiffs.

In 2003, the USAO's Civil Division hosted meetings for attorneys and paralegals from all civil client agencies located in Nebraska. The meetings provided an opportunity to improve communication between the USAO staff and personnel from its client agencies, and between the legal staffs of various federal agencies in the District. The meetings also included presentations on new developments and discussions of legal issues of mutual interest.

### Civil Cases

Some of the more significant civil cases and settlements completed in 2003 are described below.

#### United States v. Helget Gas Products, Inc. -

The United States filed suit in June 2003 alleging that Helget had violated the federal Food, Drug, and Cosmetic Act by selling medical oxygen that had been produced or packaged in a manner insufficient to ensure its safety, quality, and purity. Pursuant to the complaint, the U.S. Marshals Service seized approximately 1400 oxygen cylinders from Helget's Omaha facility. In a Consent Decree filed in August 2003, Helget agreed to bring its manufacturing practices into compliance with federal regulations for drug products, and to ensure that it produced medical gas in compliance with the Act.

Jesse Wilson v. John Potter -

After a five-day trial in United States District Court in Lincoln, the jury returned a verdict in favor of the Postal Service in this suit seeking damages for alleged discrimination in employment. Wilson had claimed discrimination on the basis of religion, sex, race and color. Upon receipt of the verdict, the complaint was dismissed with prejudice.

Londel O'Neal v. John Potter -

O'Neal brought suit alleging that he was discriminated against in his employment with the United States Postal Service. He sought damages and other relief. In response to written submissions made by the USAO, the court dismissed the suit prior to trial, finding that the denial of a lateral transfer did not constitute an "adverse employment action" sufficient to support a suit for employment discrimination.

Karen Turley v. Charles Drew Health Center -

In a case of first impression in the District of Nebraska, the USAO obtained dismissal of a suit seeking damages from a federally funded community health center for alleged malpractice in the provision of dental care.

United States v. Kathleen Hamilton -

In this action brought to foreclose a mortgage held by the United States Department of Agriculture, the borrower challenged the right of the United States to recover interest credit and subsidies owed under the terms of the government's mortgage. In a ruling that will control many other cases, the court accepted the government's arguments and rejected the borrower's challenge.

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Niobrara River Ranch, et al. v. Royce Huber, et al. -

The USAO successfully defended a suit challenging the action of the United States Fish and Wildlife Service in determining who should receive permits to conduct canoe outfitting businesses on the Niobrara National Scenic River within the Fort Niobrara National Wildlife Refuge in Northwest Nebraska. The United States District Judge dismissed the suit at the request of the USAO.

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Edward Cline, et al. v. Gale Norton -

This suit sought judicial review and modification of an order of the Indian Probate Court determining the heirs entitled to inherit an interest in Indian trust land located on the Omaha Indian Reservation. The court ruled in favor of the Secretary of Interior, and dismissed the suit.

Good Samaritan Hospital -

The USAO recovered \$1.2 million on behalf of the U.S. Department of Health and Human Services for alleged overpayments made to Good Samaritan Hospital in Kearney under the Medicare and Medicaid programs. The overpayments resulted from services provided to patients of Dr. Rajitha Goli, who was convicted of health care fraud in 2002. The United States maintained that the hospital received reimbursement for medically unnecessary procedures, and was not entitled to other payments because it had entered into improper financial relationships with Dr. Goli. Under the terms of a settlement agreement negotiated by the USAO, the Hospital made a lump sum payment of \$1.2 million and entered into a corporate integrity agreement with the Department of Health and Human Services.

## ProCare3, Inc. -

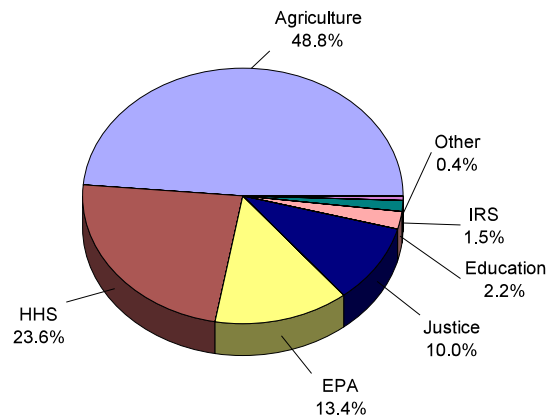
Pursuant to a settlement agreement negotiated by the USAO, ProCare3, Inc., paid \$267,880 to resolve allegations it improperly billed Nebraska Medicaid for speech therapy provided by unsupervised communication assistants and for duplicate services. As a further part of the settlement, ProCare3 entered into a corporate integrity agreement which requires regularly scheduled audits to be monitored by the U.S. Department of Health and Human Services for a period of three years.

## Collection of Judgments

The Civil Division's Financial Litigation Unit collected more than \$11.9 million in calendar year 2003. That figure represents a slight decrease from the amount collected in 2002, but is significantly more than the \$8.1 million collected in calendar year 2001. Total recoveries for individual agencies are reflected in the charts below.

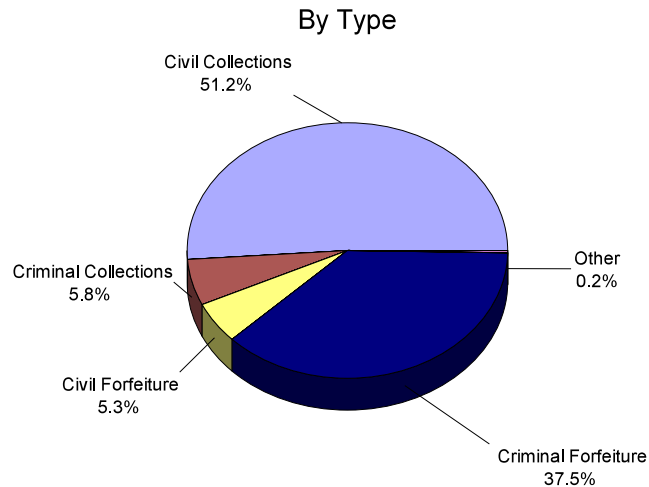
### Collections 2003

By Agency



In 2003, collections of criminal fines and restitution totaled over \$688,483. In addition, civil and criminal asset forfeiture cases resulted in forfeiture of cash and property valued at over \$5.1 million.

## Collections 2003



A large percentage of the money collected by the USAO is forwarded to federal agencies for repayment of loans and other federal program obligations. Some of the recoveries, such as those obtained for the Environmental Protection Agency, are used to reimburse agencies for costs expended in implementing and enforcing federal programs. Criminal restitution collected is delivered to crime victims, and criminal fine and assessment recoveries are used to fund federal programs for the benefit of the victims of crimes. Much of the money and property obtained through asset forfeiture litigation is redistributed to federal, state, and local law enforcement agencies for use in criminal investigatory work.

## LAW ENFORCEMENT AND COMMUNITY COORDINATION

The Law Enforcement and Community Coordination Unit (LECC) of the USAO has worked to develop strong collaborative partnerships with federal, state, tribal and local law enforcement agencies, as well as other public and private entities throughout the State, in order to support the overall mission of the USAO. Some of those partnerships are designed to

facilitate the investigation and prosecution of criminal offenses. Others are designed to prevent crime, and to provide a safer community for all Nebraskans. The LECC staff of the USAO works closely with the Nebraska Crime Commission in the planning and implementation of activities such as grant administration, data sharing, research, law enforcement training, and other specific projects.

Co-located within the USAO's LECC Unit are the Nebraska Initiatives of the Midwest HIDTA. The Midwest HIDTA effort focuses on decreasing the importation, distribution, manufacture, and demand for illegal drugs within the State and the Midwest Region. Intelligence information on drug activity is disseminated through the Nebraska Law Enforcement Intelligence System (NELEIS), maintained by the State Patrol. The HIDTA initiatives, in addition to supporting law enforcement and prosecution, have developed a number of prevention programs.

United States Attorney Heavican and LECC Manager Jeanette are members of the Policy Workgroup of the Nebraska Partners in Prevention, which is responsible for devising the criteria and protocols for the distribution of drug prevention grants to various agencies throughout the State. The USAO has also been instrumental in the development of many of Nebraska's drug courts.

Another collaborative effort of the USAO is the Weed and Seed program. The Weed and Seed program is a community-based, multi-agency approach to law enforcement, crime prevention, and neighborhood restoration. The Weed and Seed strategy brings federal, state, and local law enforcement agencies together with prosecutors, social services providers, representatives of the public and private sectors, business owners, and neighborhood residents to further the common goal of weeding out crime while seeding in social services and economic revitalization. The USAO's LECC Unit has assisted in the formation of officially recognized and funded Weed and Seed sites in the northeast and southeast areas of Omaha, and a third Weed and Seed site in Thurston County which will serve the Winnebago and Omaha Indian Reservations. The Weed and Seed sites in Omaha and in Thurston County will benefit from increased federal financial

assistance and increased cooperative efforts directed to achieving the goals of the program.

The USAO's LECC Unit continues to work closely with the Nebraska Sheriff's Association, Police Officers Association of Nebraska, Police Chiefs Association of Nebraska and the Nebraska County Attorneys Association to develop and present training on subjects related to law enforcement. An annual executive level criminal justice conference is hosted by the USAO and cosponsored by the Nebraska County Attorneys Association. A number of topics relevant to the needs of criminal justice officials are presented at this three-day conference held each May. Additional conferences are sponsored through the year on various topics of interest for law enforcement officers, prosecutors, other criminal justice officials and community members.

The USAO has developed a system for providing assistance and service to victims of federal crime. The program partners with the Federal Bureau of Investigation to provide victim services from the time of the occurrence of the crime so that victims are kept apprized of the status of investigations. Throughout the program, members of the USAO's LECC staff inform victims of federal crimes of the status of criminal cases brought against the perpetrators of those crimes, and provide assistance to victims and other witnesses when needed during the course of the prosecution.

The success of many of the programs and initiatives described elsewhere in this report depends in large part on the collaborative efforts of the USAO and personnel from other governmental and private entities. For example, the Anti-Terrorism Advisory Council in Nebraska emphasizes the sharing of intelligence information about possible terrorist activity between federal, state, local, and private agencies. The Project Safe Neighborhoods effort in Nebraska is guided by a statewide task force of law enforcement officers, prosecutors and community outreach experts. And the regional drug task forces throughout the State focus on information sharing and cooperative law enforcement approaches to address the problem of illegal drug use.

## CONCLUSION

During 2003 the components of the Nebraska USAO worked to effectively represent the interests of the United States and the people of Nebraska both in litigation and in other programs designed to increase the effectiveness of law enforcement in the State. Through cooperative efforts with other public and private entities, the USAO has sought to improve the quality of life for all Nebraskans. By building on the success of current programs and continuing our cooperative endeavors, we hope to make Nebraska an even better place to live.

## CONTACT INFORMATION

For further information about the USAO, please visit our website at [www.usdoj.gov/usao/ne](http://www.usdoj.gov/usao/ne).